

STAGING AREA AGREEMENT

THIS STAGING AREA AGREEMENT is made and entered into on _____ (“Agreement”) by and between City of Pompano Beach, a municipality of the State of Florida (“Grantor”) and Florida Power & Light Company, a Florida corporation (“FPL”).

WITNESSETH:

WHEREAS, in the event of disasters such as major storms, hurricanes, other natural disasters, and military or civil disturbances, FPL will require temporary staging areas from time to time in local communities to park trucks and stage employee vehicles and to act as show-up sites for employees of FPL, its contractors, and other utilities assisting FPL, and

WHEREAS, FPL may require such a temporary staging area in the City of Pompano Beach and Grantor is willing to provide the same to FPL and the Parties have agreed upon a location which is suitable for said purpose which is described and depicted in **Exhibit “A”** to this Agreement and which is hereinafter referred to as the “Premises”, and

WHEREAS, during use by FPL of the Premises will be secured by FPL against theft, vandalism, and site abuse, and temporary lighting will be provided by FPL and used during darkness, and

WHEREAS, Grantor is willing to provide a staging area for as long as reasonably necessary for FPL to reinstall electric service to the surrounding area, and

WHEREAS, FPL agrees that upon the completion of the company’s storm restoration to the surrounding area, the staging area will be returned to its previous condition.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grantor hereby grants to FPL the use and control of the staging area described and depicted in **Exhibit “A”** for only the functions described in the recitals above, which are incorporated as if fully set forth herein, on an “as needed” basis as may be agreed upon by Grantor and that no compensation or other consideration is to be provided by either party.

2. FPL agrees to protect, defend, indemnify and hold Grantor, its tenants, and their officers, directors, partners, affiliates, subsidiaries, employees, agents, and servants (“Grantor Entities”) free and unharmed from and against any and all third party claims (including employees of FPL, other utilities assisting FPL, and its contractors), claims, liabilities, losses, costs, property damage, personal injury, bodily injury or death or damages whatsoever, including court costs and reasonable attorneys’ fees resulting from or in connection with the use of the staging area by FPL and its contractors, including ingress and egress thereto, unless such claims are caused solely by Grantor’s intentional acts or negligence. FPL will also reimburse Grantor Entities for damages sustained as a result of the negligence of its employees or the employees of its contractors or other

utilities assisting FPL. Both parties agree that Grantor's authorization for FPL's use of the premises for no compensation shall constitute adequate consideration for this indemnification.

3. FPL will provide at its sole cost any surface improvements it deems necessary for the effective use of the area, required utility services, sanitation facilities, fuel dispensing for its equipment, mobile office facilities, tents, eating facilities, and upon termination of use, FPL will restore at its sole cost the property to at least its original condition within thirty (30) days after each and every use, which time period can be extended by Grantor for good cause shown. If Grantor shall elect to supply water, gas, electricity, or any other utility service, FPL agrees to purchase same from Grantor and to pay the reasonable charges therefor when bills are rendered at the applicable rates. FPL shall use reasonable diligence in the conservation of these utilities.

4. This Agreement shall be for a term of five (5) years commencing on the date set forth above.

5. FPL acknowledges that FPL has inspected the Premises and accepts the Premises "as is." FPL further acknowledges and agrees to be fully responsible for the cleanup of all debris during and following each use by FPL of the Premises.

6. Grantor assumes no responsibility whatsoever for any property placed in the Premises, and Grantor is hereby expressly released and discharged from any and all liability for any loss, injury or damage to persons or property that may be sustained by reason of the occupancy of said Premises pursuant to this Agreement, except any liability caused solely by the Grantor's intentional acts or negligence.

7. In the event any portion of the Premises is not vacated and restored to its original condition by FPL, following each use by FPL, Grantor shall be authorized to remove from the Premises, at the expense of FPL, all surface improvements, trucks, automobiles, goods, and property of any kind or description which may be then occupying a portion of the Premises on which the term of this Agreement has expired, and Grantor shall not be liable for any damage to or loss of such surface improvements, trucks, automobiles, goods, or property sustained either during the removal or storage of same, and Grantor, its agents, employees and officials are expressly released from any and all claims for such loss or damage. In the event that trucks, automobiles, goods, and property of FPL are not claimed within ten (10) days after removal from the Premises by Grantor, Grantor shall have the right to declare said property its own and dispose of said property as Grantor deems fit.

8. FPL shall observe and comply with all laws, statutes, ordinances, rules and regulations of the United States Government, the State of Florida, the County of Broward, the City of Pompano Beach, and any department or agency of the above.

9. FPL shall not be allowed to sublet the whole or any part of the Premises, assign, hypothecate or mortgage this Agreement or any or all of its rights hereunder, without the prior written consent of Grantor.

10. FPL agrees to pay promptly all taxes, excise or fees of whatever nature applicable to this occupancy.

11. Any notice or communication pursuant to this Agreement shall be deemed sufficiently rendered or given if the same be in writing and sent by registered or certified mail to the address set forth below:

For Grantor: City Manager
City of Pompano Beach
P. O. Box 1300
Pompano Beach, FL 33061

For FPL: Florida Power & Light
700 Universe Boulevard, ISC/JB
Juno Beach, Florida 33408
Attn: Manager Supply Chain

12. This Agreement constitutes the entire agreement between FPL and Grantor. No term, condition or provision of this Agreement may be altered or amended, nor may any term, provision or condition be added to this Agreement except upon the written approval of both parties.

13. This Agreement has been and shall be construed as having been made and delivered within the State of Florida, and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Florida, both as to interpretation and performance. Any action at law, or in equity, shall be instituted and maintained only in courts of competent jurisdiction for Broward County, Florida.

14. Nothing in this Agreement shall constitute a waiver by Grantor of its sovereign immunity limits as set forth in Section 768.28, Florida Statutes. Nothing herein shall be construed as consent from either party to be sued by third parties.

15. Grantor is a public agency subject to Chapter 119 Florida Statutes, Florida Public Records. FPL and Grantor shall, at all times, comply with the public records disclosure requirement of Chapter 119 Florida Statutes with regards to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Attest:

CITY OF POMPANO BEACH (GRANTOR)

ASCELETA HAMMOND, CITY CLERK

By: _____
REX HARDIN, MAYOR

(SEAL)

By: _____
GREGORY P. HARRISON, CITY MANAGER

APPROVED AS TO FORM:

MARK E. BERMAN, CITY ATTORNEY

FPL:

Witnesses:

FLORIDA POWER & LIGHT COMPANY

By: _____
Alex Rubio, Vice President
Integrated Supply Chain

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this _____ day of _____, 2020 by Alex Rubio, Vice President of FLORIDA POWER & LIGHT COMPANY, on behalf of the corporation. He is personally known to me or who has produced a driver's license (type of identification) as identification.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

EXHIBIT "A"

Description of Staging Area

An area described on this date as the Pompano Air Park, 1001 NE 10th Street Pompano Beach, Florida and more particularly depicted on the attached Site Plan located in Broward County, Florida.